



STATUTORY INSTRUMENTS.

S.I. No. 642 of 2019



CREDIT UNION ACT 1997 (REGULATORY REQUIREMENTS)
(AMENDMENT) REGULATIONS 2019

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In exercise of the powers conferred on the Central Bank of Ireland (the “Bank”) by section 182A of the Credit Union Act 1997 (No. 15 of 1997) (the “Act”), the Bank, having consulted the Minister for Finance, the Credit Union Advisory Committee and other bodies that appear to the Bank to have expertise or knowledge of credit unions generally and that the Bank considers appropriate to consult in the circumstances, hereby makes the following regulations:

1. (1) These Regulations may be cited as the Credit Union Act 1997 (Regulatory Requirements) (Amendment) Regulations 2019.

(2) These Regulations come into operation on 1 January 2020.

2. In these Regulations “Principal Regulations” means the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016 (S.I. No. 1 of 2016).

3. Regulation 2(1) of the Principal Regulations is amended –

(a) by deleting the definition of “commercial loan”,

(b) by substituting the definition of “house” with the following:

“‘house’ means any building or part of a building that does not have a commercial use as its primary purpose and is used or suitable for use as a dwelling and any outhouse, yard, garden or other land appurtenant thereto or usually enjoyed therewith;”, and

(c) by inserting the following definitions:

“‘business loan’ means a loan other than a community loan, that is made to-

(a) a member of the credit union that is an approved housing body, or

(b) a member, or where there is more than one member, at least one of those members, that satisfies the following conditions:

(i) the loan is made for purposes of the person’s trade, business or profession;

(ii) the person is a micro, small or medium-sized enterprise within the meaning of Commission Recommendation 2003/361/EC;

- (iii) the loan is not made for the purpose of financing, in whole or in part, the purchase, construction or refinancing of buildings or the purchase or refinancing of land that the person intends to rent to a third party in order to generate income;

‘Commission Recommendation 2003/361/EC’ means the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises¹;

‘secured loan’ means a loan that is secured by a mortgage, charge, assignment, pledge, lien, or other encumbrance in or over any asset or property, but shall not include unsecured guarantees by third parties;

‘unsecured loan’ means a loan that is not a secured loan;”.

4. Regulation 7(2) of the Principal Regulations is amended by substituting “Regulation 8” for “Regulation 8(1)”.

5. The Principal Regulations are amended by substituting for Regulation 8 the following:

“Liquidity Requirements

8. (1) Subject to paragraph (2), a credit union shall establish and maintain a liquidity ratio of at least 20 per cent.

(2) A credit union shall establish and maintain a liquidity ratio of -

- (a) at least 25 per cent, where the total gross loan amount outstanding to that credit union with more than 5 years to the final repayment date exceeds 20 per cent but is less than 25 per cent of the total gross amount outstanding in relation to all loans,
- (b) greater than 25 per cent, where the total gross loan amount outstanding to that credit union with more than 5 years to the final repayment date is equal to or exceeds 25 per cent but is less than 29 per cent of the total gross amount outstanding in relation to all loans, or
- (c) at least 30 per cent, where the total gross loan amount outstanding to that credit union with more than 5 years to the final repayment date is equal to or exceeds 29 per cent of the total gross amount outstanding in relation to all loans.

¹ OJ No. L124, 20.5.2003, p.36.

(3) Where a credit union fails to comply with paragraph (2), it shall not make any new loan with more than 5 years to the final repayment date unless it has obtained the Bank's prior approval in writing to make such a loan.

(4) A credit union shall ensure that relevant liquid assets held in compliance with this Regulation shall have the following composition:

- (a) at least 2.5 per cent of unattached savings shall comprise cash and investments with a maturity of less than 8 days;
- (b) no more than 10 per cent of unattached savings shall comprise the relevant liquid assets specified in Regulation 7(1)(c), after application of the applicable discounts specified in Regulation 7(2).

(5) In this Regulation, 'liquidity ratio' means relevant liquid assets as a percentage of unattached savings."

6. The Principal Regulations are amended by substituting for Regulation 11 the following:

"Categories of Lending

11. A credit union shall only make loans that fall within the following categories:

- (a) personal loans;
- (b) business loans;
- (c) community loans;
- (d) house loans;
- (e) loans to other credit unions."

7. The Principal Regulations are amended by -

- (a) substituting for Regulation 12 the following:

"Concentration Limits

12. (1) A credit union shall not make -

- (a) a community loan, where such a loan would cause the total amount of outstanding community loans of the credit union to exceed 25 per cent of the credit union's regulatory reserve, or
- (b) a loan to another credit union, where such a loan would cause the total amount of outstanding loans of the credit

union to other credit unions to exceed 12.5 per cent of the credit union's regulatory reserves.

(2) Subject to paragraph (3), a credit union shall not make a house loan or a business loan where such loan would cause the combined total gross amount outstanding in relation to house loans and business loans to exceed 7.5 per cent of the assets of the credit union.

(3) A credit union that satisfies all of the requirements in paragraph (4) can increase its combined total gross amount outstanding in relation to house loans and business loans to 10 per cent of the assets of the credit union.

(4) The requirements referred to in paragraph (3) are the following:

- (a) the credit union has maintained, for 2 or more consecutive quarters immediately preceding the date on which the notification referred to in subparagraph (b) is made -
 - (i) a minimum asset size of €50,000,000, and
 - (ii) regulatory reserves of at least 12.5 per cent of the assets of the credit union;
- (b) the credit union has provided the Bank with at least one month's prior notification in writing that the credit union –
 - (i) is satisfied that it is compliant with the criteria in paragraph (a) at the time of the notification, and
 - (ii) intends to increase lending in respect of house loans and business loans in accordance with paragraph (3).

(5) A credit union that is subject to the limits set out in paragraph (2) or paragraph (3) shall not make a business loan where such a loan would cause the total gross amount outstanding in relation to business loans to exceed 5 per cent of the assets of the credit union.

(6) A credit union that has made a notification to the Bank under paragraph (4)(b) but no longer complies with the criteria in paragraph (4)(a), shall –

- (a) notify the Bank in writing without delay, and
- (b) cease making new house loans or new business loans in breach of paragraph (2) except where the credit union

has already entered into a legally binding agreement with a member to advance a new house loan or a new business loan.”, and

- (b) inserting the following Regulation after Regulation 12:

“Approval for increasing Combined Lending Capacity to 15 per cent

12A. (1) A credit union may apply to the Bank for approval to increase its combined total gross amount outstanding in relation to house loans and business loans to 15 per cent of the assets of the credit union.

(2) The Bank may grant an approval referred to in paragraph (1) where –

- (a) the credit union had assets of at least €100,000,000 for 2 or more consecutive quarters immediately preceding the date on which the application was submitted under paragraph (1), and
- (b) the Bank is satisfied that the credit union has demonstrated that the approval would be -
 - (i) consistent with the adequate protection of the savings of the members of that credit union, and
 - (ii) effective and proportionate, having regard to the nature, scale and complexity of the credit union.

(3) For the purpose of paragraph (2)(b), the Bank shall consider the following:

- (a) the total realised reserve position of the credit union;
- (b) such other matters that the Bank may specify from time to time.

(4) Where the Bank grants an approval under paragraph (2), it may, at that time or at any other time, make the approval subject to conditions with which the credit union shall comply.

(5) A credit union that is approved by the Bank pursuant to paragraph (2) shall notify the Bank in writing without delay where it no longer complies with any of the requirements in paragraph (2) or any condition imposed on the approval under paragraph (4).

(6) Subject to paragraph (7), a credit union that has made a notification pursuant to paragraph (5) shall –

- (a) not make new house loans or new business loans that would cause the combined total gross amount outstanding in relation to house loans and business loans to exceed -

- (i) 10 per cent of the assets of the credit union if the credit union complied with the requirements of Regulation 12(4)(a)(i) and (ii) for 2 or more consecutive quarters immediately prior to the date that the notification referred to in paragraph (5) is made, or
- (ii) 7.5 per cent of the assets of the credit union in all other cases,

and

- (b) not make new business loans that would cause the total gross amount outstanding in relation to business loans to exceed 5 per cent of the assets of the credit union.

(7) Paragraph (6) shall not apply where the credit union has already entered into a legally binding agreement with a member to advance a new house loan or a new business loan.”

8. The Principal Regulations are amended by substituting for Regulation 14 the following:

“Maximum Loan Terms

14. (1) Subject to paragraph (2), a credit union shall not make -

- (a) an unsecured loan to a member where the period from the date on which the loan is made until the final repayment date exceeds 10 years, or
- (b) a secured loan to a member where the period from the date on which the loan is made to the final repayment date exceeds 35 years.

(2) With respect to a loan made to a member, a credit union may, with the consent of the member or of a person acting under the member’s written authority, alter the repayment conditions to extend the term of the loan beyond the limit set down in paragraph (1) in either of the following circumstances:

- (a) the loan is in arrears at the time the repayment conditions are altered;
- (b) the loan would fall into arrears if the repayment conditions were not altered because the terms of the original loan agreement would no longer be met.”

9. The Principal Regulations are amended by substituting for Regulation 15 the following:

“Requirement for House Loans

15. A credit union shall only make a house loan-

- (a) for one or more of the purposes specified in subparagraph (a) or (c) of the definition of ‘house loan’, or
- (b) to refinance a loan previously provided for one or more of the purposes specified in subparagraph (a) or (c) of the definition of ‘house loan’,

where that loan will be secured as a first legal charge on the property.”

10. The Principal Regulations are amended by substituting for Regulation 16 the following:

“Lending Practices for Specific Categories of Lending

16. (1) A credit union shall only grant a business loan, a community loan or a loan to another credit union where a comprehensive business plan and detailed financial projections (supported by evidence-based assumptions), appropriate for the scale and complexity of the loan, have been provided to it before it grants the relevant loan.

(2) A credit union shall report on the performance of loans, in writing, to the board of directors of the credit union on a monthly basis, and such report shall include details on the performance of business loans, community loans, house loans and loans to other credit unions.

(3) This Regulation does not apply to a business loan granted by a credit union where the total amount of business loans granted to a borrower, or group of borrowers who are connected, is less than €25,000.”

11. Regulation 17(2)(a) of the Principal Regulations is amended by substituting “business lending” for “commercial lending”.

12. The Principal Regulations are amended by substituting for Regulation 23 the following:

“Lending Policies

23. (1) A credit union shall, at a minimum, establish and maintain the following written lending policies:

- (a) a credit policy;
- (b) a credit control policy;
- (c) a provisioning policy.

(2) A credit union shall assess the adequacy of its provisioning for bad and doubtful debts on a quarterly basis, having regard to its provisioning policy.

(3) A credit union shall, without delay, make any adjustments to its provisioning for bad or doubtful debts deemed necessary as a result of a review provided for by paragraph (2).”

13. Regulation 24 of the Principal Regulations is amended by substituting for paragraph (1) the following paragraph:

“(1) Nothing in these Regulations shall render unlawful any loan that conflicts with these Regulations but was made or restructured by a credit union in accordance with the legislative requirements applicable at the time the loan was made or restructured, and the credit union may continue to hold such loan until it has been paid or discharged in full.”

14. Schedule 2 to the Principal Regulations is amended by substituting “European Union (Insurance Distribution) Regulations 2018” for “European Communities (Insurance Mediation) Regulations 2005” in each place where it occurs.

15. (1) A credit union that has satisfied the requirements in Regulation 12(4)(a)(i) and (ii) of the Principal Regulations for at least 2 consecutive quarters immediately prior to the commencement of these Regulations shall be taken to comply with those requirements as at the date of commencement of these Regulations.

(2) A credit union that has assets of at least €100,000,000 for at least 2 consecutive quarters immediately prior to the commencement of these Regulations shall be taken to satisfy the assets requirement under Regulation 12A(2)(a) of the Principal Regulations as at the date of commencement of these Regulations.

16. The revocation, amendment or substitution of any enactment, or part of enactment, by these Regulations –

- (a) shall not affect any direction given by the Bank, any investigation or any disciplinary, sanctioning or enforcement action undertaken by the Bank or by any other person, in respect of any matter in existence at, or before, the time of the revocation, amendment or substitution, and
- (b) shall not preclude the taking of any legal proceedings, or the undertaking of any investigation, or disciplinary, sanctioning or enforcement action by the Bank or any other person, in

respect of any contravention of an enactment (including anything revoked, amended or substituted by these Regulations) or any misconduct which may have been committed before the time of the revocation, amendment or substitution.

L.S.

Signed for and on behalf of the CENTRAL BANK OF IRELAND
on 17 December 2019.

PATRICK CASEY,
Registrar of Credit Unions

EXPLANATORY NOTE

(This note does not form part of the Instrument and does not purport to be a legal interpretation)

The purpose of these Regulations is to amend the Credit Union Act 1997 (Regulatory Requirements) Regulations 2016 (S.I. No. 1 of 2016).

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